IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 3RD DECEMBER 2007 / 12TH AGRAHAYANA 1929

Crl.MC.No. 3615 of 2007()

C.C.481 OF 2006 OF J.F.C.M, VATAKARA

PETITIONER: ACCUSED

SHAMSUDHEEN, S/O MAMBRATH AHAMMED
MUSALIAR, 49 YEARS, ONTHEMPARAMBATH HOUSE,
P.O.ADAKKATHERU, VATAKARA TALUK.

BY ADV. SRI.PULIKKOOL ABUBACKER

RESPONDENTS: COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR HIGH COURT OF KERALA, ERNAKULAM.

2. SOUDA, D/O ABDUL SHAHIB,
PARAMBATH THAZHAKUNI HOUSE,
P.O.KUNNUMAKKARA, VATAKARA TALUK.

BY ADV. SRI.R.PARTHASARATHY
PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 03/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.3615 of 2007

Dated this the 3rd day of December, 2007

O R D E R

Petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 498 A I.P.C. He is the husband of the defacto complainant. Crime was registered at the instance of the defacto complainant. Investigation is now complete. Final report has already been filed. Cognizance has been taken. Prosecution is pending against the petitioner.

2. At this stage, the petitioner and the 2nd respondent have come together before this Court to report to this Court that the disputes between them have been settled and the 2nd respondent has compounded the offence allegedly committed by the petitioner herein. It is prayed that the composition may be accepted and premature termination of the prosecution against the petitioner may be brought about.

3. The petitioner and the 2nd respondent are represented by counsel. The 2nd respondent has filed an affidavit to confirm the settlement and composition. Marital tie has been dissolved

and all the claims between the parties have been settled. Counsel for the 2nd respondent vouches for the settlement.

4. I am satisfied, in these circumstances, that the parties have settled their disputes and the 2nd respondent has compounded the offence allegedly committed by the petitioner. If legally permissible, I am satisfied, that the composition can be accepted and premature termination of the proceedings can be brought about.

5. But the offence under Section 498 A I.P.C is not legally compoundable. Counsel in these circumstances rightly place reliance on the decision in **B.S.Joshy v. State of Haryana** [A.I.R (2003) SC 1386]. That decision is authority for the proposition that the powers under Section 482 Cr.P.C are wide and sweeping and can be pressed into service when the interests of justice so demand. The interests of justice, it is held, may at times transcend the interests of mere law and in such circumstances, the provisions of Section 320 Cr.P.C cannot be reckoned as a fetter on the powers of the Court under Section 482 Cr.P.C.

6. I am satisfied that this is an eminently fit case where the said dictum can be invoked and the proceedings brought to premature termination.

7. In the result, this Crl.M.C is, allowed. C.C.No.481 of 200 pending before the Judicial Magistrate of the First Class, Vadakara against the petitioner is hereby quashed.

(R.BASANT, JUDGE)

rtr/-